

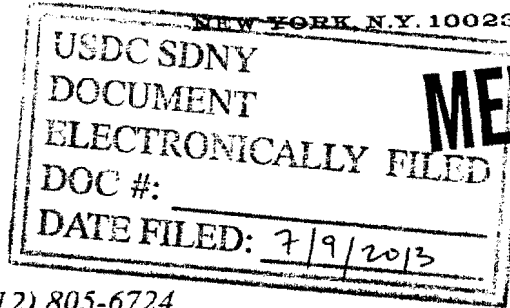
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MEMO ENDORS

BARBARA T. HOFFMAN
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July 9, 2013

Via facsimile only: (212) 805-6724

Honorable Magistrate Judge Frank Maas
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

The case did not
settle.
Maas, USMD,
7/9/13

Re: Agence France Presse v. Daniel Morel, Case No. 10-cv-2730 (AJN) (FM)

Dear Magistrate Judge Maas:

I am former counsel to Daniel Morel.

On May 4, 2013, in anticipation of settlement discussions, I wrote to the Court for the purpose of notifying the Court of my rights as an attorney who has withdrawn pursuant to N.Y. R.P.C. 1.16 (6)(3) based on my discharge by Mr. Morel without cause.

I understand from the docket sheet that counsel for the parties held settlement discussions yesterday. The purpose of this letter is respectfully, to inquire as to the status of the negotiations. Has there been a settlement? If not, will settlement discussions continue or is the matter to proceed to trial scheduled for September 16, 2013. This inquiry is for the purpose of knowing when to move to enforce my claims on the settlement or judgment amount.

An attorney discharged without cause has three remedies: the retaining lien, the charging lien and the plenary action in *quantum meruit*. These remedies are not exclusive, but cumulative (*Balestriere PLLC v Banx Corp, et al*, 96 A.D. 3d 497, 947 N.Y.S. 2d 7, 2012 N.Y. App. Div. Lexis 4603) (1st Dept. 2000). The retaining lien has no application to these facts.

28 U.S.C §1367 provides federal judges with the power to exercise supplemental jurisdiction over these claims. The Second Circuit has ruled a federal court may exercise its supplemental jurisdiction over such claims as herein because the dispute relates to the main action. See *Itar-Tass Russian News Agency v Russian Kurier, Inc.* 140 F 3d 442 (444-49) (2d Cir 1998)

A charging lien under New York Judiciary Law §475 ("Section 475") is properly enforced in federal court. Under plain language of Section 475, "a charging lien is against any judgement or settlement in favor of the client..." *Butler, Fitzgerald and Potter* 235 A.D. 2d at 219.651 N.Y.S. 2d at 527.

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Judge Frank Maas
July 9, 2013

Thank you in advance for your advice in this matter.

As I previously noted, I am available to provide the Court with any assistance I can.

Respectfully submitted,


Barbara Hoffman

Cc : Joshua Kaufman, Esq. (via facsimile)
James Rosenfeld, Esq. (via facsimile)
Joseph Baio, Esq. (via facsimile)

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DATE: July 9, 2013

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MESSAGE/SPECIAL INSTRUCTIONS:

Please see attached letter.

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